IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 535 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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MULABHAI PARMABHAI AMIN - Appellant(s)
Versus
JAYANTILAL HIRJIBHAI PATEL & 2 - Defendant(s)

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Appearance :
MR DF AMIN for Appellant(s) : 1,
RULE SERVED for Defendant(s) : 1, 3,
RULE NOT RECD BACK for Defendant(s) : 2,
MR AV TRIVEDI for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 02/09/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgment and award dated 2.1.88 passed by the Motor Accident Claims Tribunal (Aux) Sabarkantha, Himmatnagar in M.A.C. Petition No. 454/85 whereby the Tribunal awarded compensation Rs 33, 126-60.

2. The original claimant had filed claim petition seeking compensation of Rs 33, 126-60/- for injury

sustained in a vehicular accident which occurred while the original claimant was walking on the side of the road. At that time the opponent No. 2 came driving truck No. GTY 4669 came from behind in a rash and negligent manner and knocked down the appellant resulting in serious injury. Hence the claim petition was filed to recover Rs 2,00,000/- from the opponents. The present appeal is for enhancement of compensation.

3. Learned counsel for the appellant has contended that appellant is entitled to compensation of Rs 4000/-+ Rs 3000/- on account of pain, shock and suffering. Further looking at the age of the claimant as well as the disability the appellant is entitled to get Rs 15,000/-.

4. Learned counsel for the appellant has contended that the appellant is entitled Rs 3000/- for operation and hospital charges and Rs 1500/- for medicine and Rs 4500/- on account of medical treatment. It is further contended that Hon'ble Tribunal has erred in awarding Rs 500/- as

compensation on account of special diet and Rs 500/- for nursing cost. According to him he is entitled to atleast Rs 1000/- on account of attendent charges and Rs 2000 for special diet. He further submitted that the Tribunal has erred in awarding only Rs 4065/- as compensation on account of loss of income.

5. As a result of hearing and perusal of the record the Tribunal has considered maximum increase in income while calculating future loss of income. Therefore there is no scope of awarding any amount under the said head. The claimant has been awarded Rs 500/- by way of conveyance charges. Nothing is produced on record to show that the claimant had incurred any higher amount that what is awarded by the Tribunal. After considering the salary certificate and days of leave the Tribunal has correctly taken the amount of Rs 4065.60. There is no reason to increase the same.

6. The Tribunal has considered that the disability is of 11% and 5 ½ % for whole body. Looking to the injuries and treatment the Tribunal

has awarded a sum of Rs 4000/- and Rs 8000/- for pain shock and suffering as a loss of enjoyment of life which compensation cannot said to be on the lower side. The amounts awarded towards rich diet and attendance charges are quite justified.

7. I am of the view that the Tribunal has considered all the aspects of the matter and nothing is pointed out to show that any interference is required for enhancement in the appeal. Hence the appeal is dismissed. No order as to costs.

8. In the premises aforesaid, appeal is dismissed. No order as to costs.

(K.S.Jhaveri,J)

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